

**IN THE UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF GEORGIA**

|                  |   |                       |
|------------------|---|-----------------------|
| In re:           | * |                       |
|                  | * | CHAPTER 13            |
| LESLIE MCDANIEL, | * | CASE NO. 12-41231-JTL |
|                  | * | JUDGE LANEY           |
| Debtor           | * |                       |

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|  |   |                      |
|--|---|----------------------|
| LESLIE McDANIEL, Individually and as     | * |                      |
| Representative of her Bankruptcy Estate, | * |                      |
|  | * |                      |
| Plaintiff,                               | * |                      |
|  | * |                      |
| v.                                       | * | ADVERSARY PROCEEDING |
|  | * | NO. 13-04013         |
| SUNTRUST BANK, SUNTRUST                  | * |                      |
| MORTGAGE, INC., McALLA                   | * |                      |
| RAYMER, LLC, FOXFIRE ACRES, INC.,        | * |                      |
| THE UNITED STATES by and through         | * |                      |
| THE INTERNAL REVENUE SERVICE,            | * |                      |
| THE STATE OF GEORGIA                     | * |                      |
| (Represented by the DEPARTMENT OF        | * |                      |
| REVENUE), THE GROGAN GROUP,              | * |                      |
| LLC d/b/a GROGAN & GROGAN, and           | * |                      |
| THE COLUMBUS CONSOLIDATED                | * |                      |
| GOVERNMENT,                              | * |                      |
|  | * |                      |
| Defendants.                              | * |                      |

**MOTION TO DISMISS CROSS-CLAIM OF DEFENDANT FOXFIRE ACRES, INC.**

COMES NOW McCalla Raymer, LLC (“McCalla Raymer”), and pursuant to Bankruptcy Rule 7012(b)(1), Fed.R.Civ.P. 12(b)(1), Bankruptcy Rule 7012(b)(6), and Fed.R.Civ.P. 12(b)(6), hereby moves the Court to dismiss the Cross-Claim filed by Defendant Foxfire Acres, Inc. (“Foxfire”) [Doc. 11], respectfully showing the Court the following:

1.

Plaintiff filed this adversary proceeding on October 17, 2013. Defendant Foxfire filed its Answer and Cross-Claim on November 20, 2013. Foxfire asserts a single claim for declaratory relief in its Cross-Claim. Neither Foxfire nor McCalla Raymer are creditors in the subject bankruptcy case.

2.

McCalla Raymer shows that Foxfire has not set forth a cognizable claim against McCalla Raymer in its Cross-Claim. The matters at issue in Foxfire's Cross-Claim are further already at issue in the case of *Foxfire Acres, Inc. v. McCalla Raymer, LLC, et. al.*, Superior Court of Muscogee County, Civil Action Number SU11-CV-4107.

3.

McCalla Raymer denies that Foxfire's Cross-Claim against McCalla Raymer is a core proceeding as contemplated by 28 U.S.C. § 157, and denies that this action is sufficiently related to the above-styled bankruptcy case so as to authorize jurisdiction of this Court as to those claims. This Court lacks subject matter jurisdiction to consider Foxfire's Cross-Claim. McCalla Raymer does not consent to the entry of a final judgment on the Cross-Claim against McCalla Raymer.

4.

Pursuant to Bankruptcy Rule 7012(b)(1), Fed.R.Civ.P. 12(b)(1), Bankruptcy Rule 7012(b)(6) and Fed.R.Civ.P. 12(b)(6), Foxfire's Cross-Claim should be dismissed as to McCalla Raymer.

Respectfully submitted, this 9th day of December, 2013.

PAGE, SCRANTOM, SPROUSE,  
TUCKER & FORD, P.C.

By: s/Stephen G. Gunby

Stephen G. Gunby

Ga. Bar No.: 315212

Alan G. Snipes

Ga. Bar No.: 665781

1111 Bay Avenue, Third Floor  
P. O. Box 1199  
Columbus, Georgia 31902  
(706) 324-0251  
[sgg@psstf.com](mailto:sgg@psstf.com)

Attorneys for McCalla Raymer, LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document was served either electronically or via U.S. Mail with adequate first class postage to the addresses below on the following persons:

Mr. Fife W. Whiteside  
P.O. Box 5383  
Columbus, Georgia 31906

Ms. Cater C. Thompson  
Jones, Cork & Miller, LLP  
P.O. Box 6437  
Macon, Georgia 31201

Audrey Seidle Eshman  
Assistant Attorney General  
40 Capital Square, S.W.  
Atlanta, Georgia 30334-9457

Kristin Hurst  
Chapter 7 Trustee  
P.O. Box 1907  
Columbus, Georgia 31902

James D. Patrick  
831 2<sup>nd</sup> Avenue  
Columbus, Georgia 31901

This 9<sup>th</sup> day of December, 2013.

/s Steven G. Gunby